

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

**HAROLD S. CROCKER, JR. and ANNA
BODNAR, on behalf of themselves and
others similarly situated,**

Plaintiffs,

v.

**KV PHARMACEUTICAL, MARC S.
HERMELIN, RONALD J. KANTERMAN,
DAVID S. HERMELIN, MELISSA
HUGHES, RICHARD H. CHIBNALL,
GERALD R. MITCHELL, MARY ANN
TICKNER, and DOES 1-20,**

Defendants.

Civil Action No.: 4:09-cv-0198-CEJ

**PLAINTIFFS' MOTION TO SET HEARING ON UNOPPOSED
MOTION FOR PRELIMINARY APPROVAL OF SETTLEMENT,
CLASS CERTIFICATION, APPROVAL OF SETTLEMENT
NOTICE AND SETTING A DATE FOR FINAL FAIRNESS HEARING**

Come now Plaintiffs, by attorneys, and move this Court to set a hearing on Plaintiff's pending Unopposed Motion for Preliminary Approval of Settlement, Class Certification, Approval of Settlement Notice and Setting a Date for Final Fairness Hearing. As grounds for said request, Plaintiffs state:

1. This case was successfully mediated before the Eighth Circuit Mediator on February 15, 2011, remanded for purposes of determining whether this Court approves the settlement, and the parties have been regularly reporting to the Eighth Circuit regarding status per the Eighth Circuit's instruction.

2. On June 23, 2011, Plaintiffs filed their Unopposed Motion for Preliminary Approval of Settlement, Class Certification, Approval of Settlement Notice and Setting a Date for Final Fairness Hearing, and Memorandum in support thereof. Doc. #'s 154 & 155.

3. E.D. Mo. Local Rule 4.02 provides that “[t]he Court may in its discretion order oral argument on any motion.”

4. Plaintiffs respectfully suggest that oral argument will aid the Court by allowing the parties to further elucidate their positions and to answer any questions that the Court may have before it rules on this settlement approval, class certification and notice.

5. Pursuant to the parties’ settlement agreement, Defendants are not required to fund the settlement escrow account until after preliminary approval of the settlement. Therefore, the Settlement Amount is not earning interest on behalf of the Class and the Class will not be compensated for such losses.

WHEREFORE, for the foregoing reasons, Plaintiffs respectfully requests that this Court schedule oral argument on Plaintiffs’ pending Unopposed Motion for Preliminary Approval of Settlement, Class Certification, Approval of Settlement Notice and Setting a Date for Final Fairness Hearing.

Dated: January 6, 2012

Respectfully submitted,
WEINHAUS & POTASHNICK
/s/ Mark Potashnick
S. Sheldon Weinhaus, E.D. Mo. #16699MO
Mark Potashnick, E.D. Mo. #41315MO
Weinhaus & Potashnick
11500 Olive Blvd., Suite 133
St. Louis, MO 61341
Tel.: (314) 997-9150
Interim Co-Liason Counsel

Ellen M. Doyle
Pamina Ewing
Stember Feinstein Doyle & Payne, LLC
1705 Allegheny Building
429 Forbes Avenue
Pittsburgh, PA 15219
Tel: (412) 281-8400

Interim Co-Lead Counsel

Robert I. Harwood
Daniella Quitt
Peter W. Overs, Jr.
Harwood Feffer LLP
488 Madison Avenue, 8th Floor
New York, NY 10022
(212) 935-7400

Interim Co-Lead Counsel

Paul J. D'Agrosa
Wolf and D'Agrosa
7710 Carondelet Avenue, Suite 200
Clayton, MO 63105
Tel. (314) 725-8019

Interim Co-Liason Counsel

Major Khan
Major Khan LLC
20 Bellevue Terrace
Weehawken, NJ 07086
(646) 546-5664

Counsel for Plaintiffs

Thomas J. McKenna
Gainey & McKenna
295 Madison Avenue
New York, NY 10017
Tel.: (212) 983-1300

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I certify that a true copy of the foregoing document was served electronically via the CM/ECF system on all counsel of record on this 6th day of January, 2012.

s/Mark Potashnick
Mark Potashnick